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Date 8/29/95

Signature [REDACTED] *000*

[REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

You were incorporated [REDACTED] under the laws of the state of [REDACTED]. Your stated purposes are exclusively charitable, scientific, literary, and educational. Your bylaws provide that membership in your organization is open to any employee or representative of any organization currently using any version of [REDACTED].

[REDACTED] is a software package which allows maintenance organizations to schedule and track all aspects of maintenance related tasks. Your primary activity is to coordinate the annual [REDACTED] Users Group meeting. All users, owners, dealers, parent company representatives, and third party vendors are invited to attend. Presentations are given on the use of the software. The purposes of the meeting are to improve knowledge and skills, share information, network with fellow users, and propose future enhancements to the developer of the software. Nonmembers, such as persons contemplating the purchase of [REDACTED] are not permitted to attend.

Your chief source of funds is the fee charged for attendance at the annual meeting. You receive no funding from [REDACTED], the owner of [REDACTED]. [REDACTED] dealers, vendors, representatives, or their employees or agents are not eligible for selection to your Board of Directors.

Section 501(c)(3) of the Internal Revenue Code describes, in relevant part, corporations organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that, in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for any exempt purpose set forth in section 501(c)(3) of the Code unless it serves a public rather than a private interest.

Rev. Rul. 74-116, 1974-1 C.B. 127, describes an organization whose membership is limited to organizations that own, rent, or use a specific type of computer and whose activities are designed to keep members informed of current scientific and technical data of special interest to them as users of the computer. The organization is a membership association devoted to developing and exchanging research data among users of a specific type of computer. The organization also serves as liaison between users and the manufacturer of the computer. In furtherance of its objectives, the organization conducts meetings and seminars at which operational and technical problems relating to the use of this computer are discussed. Representatives of the manufacturer are invited to attend these functions to answer questions concerning the computer's operation. Membership is limited to organizations that own, rent, or use this specific computer. Income is from membership dues and seminar fees. Expenditures are made primarily for instructional materials, publishing, and other operational expenses. By making specialized information available to its members under the circumstances described above, the organization is serving the private interest of its members rather than a public interest. Accordingly, the organization is not exempt from Federal income tax under section 501(c)(3) of the Code.

Like the organization described in Rev. Rul. 74-116, your membership is limited to users of a particular product. The fact that in your case the product is software rather than hardware is not relevant. While admittedly many of your activities are educational, these activities do not serve a public interest. Rather, they serve the private interests of your members. Since you serve a private rather than a public interest, you do not meet the requirements of section 1.501(c)(3)-1(d)(1)(ii) of the regulations.

Accordingly, based on all the facts and circumstances, we conclude that you do not qualify for recognition of exemption under section 501(c)(3) of the Code. Contributions to you are not deductible under section 170 and you are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(h)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

You will expedite our receipt of your reply by using the following address on the envelope:

Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Sincerely yours,

CC:

Chief, Exempt Organizations
Technical Branch 2

Code					
Surname					
Date	7/18/95	7-19-95			